

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268

In the Matter of	*	
SPANISH FORT, ALABAMA 36527	*	Docket No.: A2021-1
City of Spanish Fort, Alabama Petitioner.	*	

BRIEF IN RESPONSE TO UNITED STATES  
POSTAL SERVICE’S MOTION TO DISMISS PROCEEDINGS

COMES NOW the City of Spanish Fort, Alabama, an Alabama municipal corporation, Petitioner in the above-styled matter, and in response to the United States Postal Service’s Motion to Dismiss Proceedings, shows this Honorable Commission the following, to wit:

I. QUESTIONS PRESENTED

- A. Whether the Postal Regulatory Commission has jurisdiction to consider the appeal of the Postal Service’s closure of the Spanish Fort Post Office?
- B. Whether the Postal Regulatory Commission should consider the Spanish Fort Post Office as a “sole source” based on the fact that it is the only Post Office located in the City of Spanish Fort, among other reasons, and exercise jurisdiction in this appeal?
- C. Whether the Postal Regulatory Commission should reconsider the “sole source” rule or exception and its application to post offices, like the Spanish Fort Post Office, to ensure that there is at least some regulatory oversight over the closing the only Post Office in a city or community?

## II. FAILURE OF THE POSTAL SERVICE TO FILE THE ADMINISTRATIVE RECORD

In its Motion to Dismiss, the Postal Service sets forth a Factual Background, containing certain facts which it contends are relevant to this matter. Petitioner respectfully points out that the Postal Service has failed to provide Petitioner and this Commission with the full administrative record in accordance with Order No. 5793 issued by this Commission<sup>1</sup>. On January 13, 2021, the Petitioner filed a Motion to Compel and Supplement Application for Suspension of the Determination of the Postal Service to Close the Spanish Fort Post Office, and, in part, requested that the Postal Regulatory Commission order the Postal Service to file the administrative record in accordance with Order No. 5793. In the absence of such record, Petitioner contends that it is not possible to fully consider the merits of the matter presently before this Commission. The Petitioner asserts that the Postal Service's Motion to Dismiss should be denied in the absence of an administrative record.

## III. FACTUAL BACKGROUND AND DISCUSSION

The City of Spanish Fort is a municipal corporation located in Baldwin County in the state of Alabama. On November 1, 1961, an Independent Rural Station was established in Spanish Fort as an extension of the Daphne Post Office. This unit has operated as a Community Post Office since January 1, 1980. The CPO's address listed as 6450 U.S. Highway 90, Spanish Fort, AL 36527. This Post Office is located in its own separate independent space and is not located inside an existing business. The Spanish Fort Post Office provides limited retail products and services, similar to those

---

<sup>1</sup>PRC Order No. 5793, Notice and Order Accepting Appeal and Establishing Procedural Schedule, PRC Docket No. A2020-1 (December 29, 2020).

provided by a Post Office, and offers an open window for service and 927 Post Office Boxes to customers. The Post Office has indoor mail collection and deposit and an outdoor mail receptacle. The sign on the front of the building reads “U. S. Post Office”. Postal Service employees deliver mail to and courier mail from the Post Office on a daily basis. The Spanish Fort Post Office looks and operates like a Post Office. The Spanish Fort Post Office is a “post office”. Photographs of the Post Office building and the interior are attached as Exhibit A.

In 2019, the Spanish Fort CPO’s previous supplier retired and terminated its contract with the Postal Service. According to the Postal Service’s Motion to Dismiss, “[g]enerally, when a previously established CPO is terminated, the Postal Service may award a short-term temporary (emergency) contract to a supplier to provide postal services in the community”. On information and belief, the purpose of the temporary contract is to “delay temporarily the closure of the Spanish Fort CPO while the Postal Service attempted to secure a suitable replacement through a bid solicitation process, or, in the alternative, determine its strategy for closing the Spanish Fort CPO”. While we were informed that the Postal Service was planning to keep the post office boxes in Spanish Fort, the Postal Service issued solicitations for bids for a small kiosk to be located in a retail establishment without post office boxes. Based on information provided by elected officials, Petitioner believes that it was misled by the Postal Service.

In its Motion to Dismiss, the Postal Service states that “a first solicitation for contractual bids was issued on November 3, 2020 and was closed on November 13, 2020; a second solicitation was issued on November 19, 2020 and was closed on December 5, 2020. According to the Postal Service, the Postal Service received a single bid”; this bid was submitted each time by the

CPO's current supplier; and its terms-though slightly altering from one solicitation to the next-fell outside the parameters of the Postal Service's acceptable compensation model". Without the administrative record, the Postal Regulatory Commission has no way to determine the accuracy of the factual statements made by the Postal Service. On information and belief, the CPO's current supplier made varying offers to keep the Post Office open, but the Postal Service's insistence that the Post Office boxes be moved to Daphne affected the financial viability of any offer. Financially, the Spanish Fort Post Office has operated at a break even point, and with a budget of approximately \$170,000.00 per year, the Post Office seems to be very efficient in its operations. On information and belief, the Post Office boxes generate approximately \$100,000.00 to \$130,000.00 per year in revenue. Unlike other Contract Postal Units which have been closed by the Postal Service, the City of Spanish Fort and the surrounding community are not declining in population, and on information and belief, the Spanish Fort Post Office is not losing money.

The Postal Service states that, "by written notice dated December 1, 2020, and placed in each active Post Office Box of the Spanish Fort Post Office on December 1, 2020, the Postal Service informed customers that the Spanish Fort Post Office would permanently close effective January 15, 2021".

The City of Spanish Fort is a growing municipality with approximately 10,000 residents, and the surrounding Spanish Fort community is home to another 10,000 plus residents. The City has experienced approximately 30.8% growth between 2010 and 2018, and it is expected that this level of growth will continue and possibly increase. The Alabama Department of

Transportation projects that the City of Spanish Fort will be the largest city in Baldwin County by 2035.

The City of Daphne and the surrounding community is growing as well. While the Postal Service plans to close the Spanish Fort Post Office and move the Spanish Fort post office boxes to the Daphne Post Office, the Daphne Post Office as constructed has limited capacity. With the projected growth on the Eastern Shore in Baldwin County, it is likely that the Daphne Post Office could reach maximum capacity in a few years requiring expansion or a new facility. The capacity of the Daphne Post Office and future demands for postal services in the area needs to be reviewed.

The Daphne Post Office is approximately 4.8 miles from the Spanish Fort Post Office. Depending on traffic conditions related to capacity issues on State and Federal Highways in the area, including Interstate 10, during work and weekend traffic moving to and from the Alabama, Florida and Mississippi gulf coast and traffic accidents that routinely divert traffic through the main thoroughfares in Spanish Fort and Daphne, a round trip for service can take anywhere from thirty minutes to one hour, depending on where you live. Due to the size of the City of Spanish Fort and the location of access roads, some citizens would be required to drive approximately 15 miles to the Daphne Post Office. Such travel distances and times would be difficult for our growing elderly population as well.

In addition to serving the needs of Petitioner and the citizens of the City of Spanish Fort and the surrounding community, the Spanish Fort Post Office serves a number of substantial businesses. Each such person and entity would be adversely impacted by the closure of the Spanish Fort Post Office.

#### IV. ARGUMENT

A. The Postal Regulatory Commission does have jurisdiction to consider the appeal of the Postal Service’s closure of the Spanish Fort Post Office under 39 U.S.C. § 404(d).

The fundamental questions are (1) whether the Postal Service has adopted regulations which conflict with a federal statute; (2) whether the Postal Service has simply disregarded a portion of a federal statute; or (3) whether, in adopting regulations that distinguish “community post offices” and “contract post offices” from “USPS-operated” postal facilities, the Postal Service has exercised rule making authority in violation of the United States Code or the “nondelegation doctrine,” which limits the ability of the Legislature, or Congress, to assign its legislative rule making authority to a coordinate branch of government.

#### Postal Service Regulations

The United States Code provides the following in a provision titled “specific powers” of the Postal Service:

(a) Subject to the provisions of section 404a, but otherwise without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others . . . (3) to determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities, and equipment as it determines are needed;

. . .

(d)(1) The Postal Service, prior to making a determination under subsection (a)(3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

39 U.S.C.A. § 404 (Emphasis added.). The United States Code in 39 U.S.C. § 404(d)(2) sets forth the factors that are to be considered by the Postal Service in making a determination whether or not to close or consolidate “any post office”, and 39 U.S.C. § 404(d)(3) states that “[a]ny determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determinations and findings shall be made available to persons served by such post office.” The United States Code in 39 U.S.C. § 404(d)(4) states that the “Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office”. On information and belief, the Postal Service did not follow the aforementioned rules and procedures set forth in 39 U.S.C. § 404 in closing the Spanish Fort Post Office.

The Postal Service has adopted regulations governing, “Discontinuance of USPS-operated retail facilities.” *See* 39 C.F.R. § 241.3. In effect, the Postal Service’s discontinuance regulations distinguish “USPS-operated retail facilities” from contractor-operated facilities, excluding facilities which are operated by contractors from the discontinuance procedures established in the regulations.<sup>2</sup> The regulations codified at 39 C.F.R. § 241.3 *do* require 60-days’ notice before closing a “USPS-operated retail facility” and attempts to outline discontinuance or closing procedures consistent with 39 U.S.C. 404 for “USPS-operated” post offices only. However, the Postal Service did not give Spanish Fort’s Post Office that notice, presumably because it does

---

<sup>2</sup>“USPS-operated retail facility” includes any Postal Service employee-operated Post Office, station, or branch, but does not include any station, branch, community Post Office, or other retail facility operated by a contractor.” 39 C.F.R. § 241.3 (underscore supplied).

not meet the Postal Service's definition of a "USPS-operated retail facility. The regulations contained in 39 USC Part 241 do not appear to contain separate provisions relating to the discontinuance of contractor-operated facilities.

Conflict between Statute and Regulation

The first question is whether the Postal Service's failure to provide 60 days notice before closing the Spanish Fort Post Office violates the notice requirement set forth in 39 U.S.C. § 404(d)(1), that, "the Postal Service, prior to making a determination . . . for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing." It is well-settled that, "If a regulation conflicts with a statute, the statute controls." *Creemeens v. City of Montgomery*, 602 F.3d 1224, 1227 (11th Cir. 2010). It does not appear that the term "post office" is defined by the statute (39 U.S.C. § 404) to distinguish USPS-operated facilities from contractor-operated facilities. As a result, the Petitioner asserts that the Postal Service may have violated the mandatory notice provisions set forth in 39 U.S.C. § 404(d)(1) prior to closing the Spanish Fort Post Office.

It also appears that, in implementing its regulations, the Postal Service has determined that USPS-operated postal facilities should receive 60-days' notice, but that Community Post Offices or contractor-operated facilities should not. Stated differently, the Postal Service's regulations distinguish between these two types of facilities, and this distinction may run afoul of the "nondelegation doctrine."



### The Nondelegation Doctrine

The Postal Service may have violated the nondelegation doctrine by implementing regulations that exceed the permissible scope of rulemaking authority which Congress may delegate to a coordinate branch of government. The United States Supreme Court most recently summarized the “nondelegation doctrine in *Gundy v. United States*, 139 S. Ct. 2116 (2019). In short, Congress may not delegate legislative authority to another branch of government unless the Congress provides an “intelligible principle” to which the delegatee is required to conform. The Court stated the doctrine as follows:

Article I of the Constitution provides that “[a]ll legislative Powers herein granted shall be vested in a Congress of the United States.” § 1. Accompanying that assignment of power to Congress is a bar on its further delegation. Congress, this Court explained early on, may not transfer to another branch “powers which are strictly and exclusively legislative.” *Wayman v. Southard*, 23 U.S. (10 Wheat.) 1, 42–43, 6 L.Ed. 253 (1825). But the Constitution does not “deny[ ] to the Congress the necessary resources of flexibility and practicality [that enable it] to perform its function[s].” *Yakus v. United States*, 321 U.S. 414, 425, 64 S.Ct. 660, 88 L.Ed. 834 (1944) (internal quotation marks omitted). Congress may “obtain[ ] the assistance of its coordinate Branches”—and in particular, may confer substantial discretion on executive agencies to implement and enforce the laws. *Mistretta v. United States*, 488 U.S. 361, 372, 109 S.Ct. 647, 102 L.Ed.2d 714 (1989). “[I]n our increasingly complex society, replete with ever changing and more technical problems,” this Court has understood that “Congress simply cannot do its job absent an ability to delegate power under broad general directives.” *Ibid.* So we have held, time and again, that a statutory delegation is constitutional as long as Congress “lay[s] down by legislative act an intelligible principle to which the person or body authorized to [exercise the delegated authority] is directed to conform.” *Ibid.* (quoting *J. W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394, 409, 48 S.Ct. 348, 72 L.Ed. 624 (1928); brackets in original).

Given that standard, a nondelegation inquiry always begins (and often almost ends) with statutory interpretation. The constitutional question is whether Congress has supplied an intelligible principle to guide the delegatee's use of discretion. So the

answer requires construing the challenged statute to figure out what task it delegates and what instructions it provides.

*Gundy*, 140 S. Ct. at 205 (underscore supplied). The parameters of the “intelligible principle” rule have been addressed repeatedly.

In *Mistretta v. United States*, 488 U.S. 361, 372–73 (1989), the Court addressed what constitutes an “intelligible principle,” and concluded, “Accordingly, this Court has deemed it constitutionally sufficient if Congress [1] clearly delineates the general policy, [2] the public agency which is to apply it, and [3] the boundaries of this delegated authority.” The Eleventh Circuit Court of Appeals noted:

Interpreting the nondelegation doctrine, we have held that Congressional legislation which prescribes essential standards and basic legislative policy and delegates to an administrator authority for promulgation of rules and regulations is constitutionally permissible, provided the standards are sufficiently definite and precise to enable Congress, the courts and the public to ascertain whether the Administrator...has conformed to those standards.

*United States v. Brown*, 364 F.3d 1266, 1271 (11th Cir. 2004) (internal quotations omitted).

In considering whether the Postal Service’s “discontinuance regulations” impermissibly surpass the scope of administrative rulemaking authority, it is important to consider the third component of the “intelligible principle” test set forth in *Mistretta*, namely whether “the boundaries of this delegated authority” have been clearly identified. Here, the statute itself vests the Postal Service with authority to close post office, but mandates that 60 days notice must be given, “prior to making a determination . . . for the closing or consolidation of any post office” and sets forth factors which must be considered and procedural requirements which must be followed. 39 U.S.C. § 404(d)(1). Therefore, the statute which the regulations are supposed to implement contains an

express requirement that 60 days notice be given before closing “any post office” and additional requirements which must be met before closing a post office. Stated differently, there is a clear “boundar[y] of this delegated authority” within which the regulations must conform. The Postal Service regulations presume to create a distinction between contractor-operated facilities and USPS-operated facilities, but the statute requires notice before closing “any post office.” Because the regulations exceed the scope of their delegated authority, they may have run afoul of the nondelegation doctrine.

Although the Postal Service refers to the Spanish Fort Post Office as a Community Post Office, the Spanish Fort Post Office is operated in a substantially different manner than other Community Post Offices, based upon the descriptions provided by the Postal Service. Rather than being located inside of an existing business, the Spanish Fort Post Office continues to occupy a separate, independent space, which has housed the Spanish Fort Post Office for many decades. Said building is labeled as a “U. S. Post Office” by a large sign on the front wall. Postal Service employees continue to deliver mail to and collect mail from this Post Office on a daily basis. To the citizens and businesses of Spanish Fort, this Spanish Fort Post Office is a Post Office.

Based on the foregoing and given the ambiguity in the applicable regulations, the manner in which the Spanish Fort Post Office is operated, and the public perception of the Spanish Fort Post Office, the Commission should take jurisdiction of this appeal.

B. The Spanish Fort Post Office should be considered the “sole source” of postal services to the City of Spanish Fort and the surrounding community as it is the only Post Office located in the City.

The Spanish Fort Post Office has served the residents and businesses of Spanish Fort and the surrounding community for sixty (60) years. While the Postal Service may not consider the Spanish Fort Post Office to be a “real” Post Office, to the people who use this Post Office, it is a “real” Post Office and should not be summarily closed without following the appropriate procedures and allowing for public comment. As the Spanish Fort Post Office is the only post office in the City, it should be deemed to be a “sole source” for the purpose of review by the Postal Regulatory Commission.

The Postal Service takes the position that the Spanish Fort Post Office is not a “sole source” provider based on its argument that the Daphne Post Office is approximately 4.8 miles away, and the Montrose and Mobile Post Offices are 7 and 8.9 miles away, respectively. The Montrose Post Office is located further south of the Daphne Post Office in Baldwin County, and the Mobile Post Office is located across Mobile Bay and the Mobile River Delta in Mobile County. The Postal Service also states that customers of the Spanish Fort Post Office can purchase stamps through usps.com and at multiple nearby businesses in the area. Depending on traffic conditions related to capacity issues on State and Federal Highways in the area, including Interstate 10, during work and weekend traffic moving to and from the Alabama, Florida and Mississippi gulf coast and traffic accidents that routinely divert traffic through the main thoroughfares in Spanish Fort and Daphne, a round trip for service can take anywhere from thirty minutes to one hour, depending on where you live. Due to the size of the City of Spanish Fort and the location of access roads, some citizens would be required to drive approximately 15 miles to the Daphne Post Office. The Montrose and Daphne Post Offices would require greater travel time at greater distances. Such travel distances and

times would be difficult for our growing elderly population as well. Spanish Fort is home to a large population of elderly citizens with limited mobility, who increasingly rely on the Spanish Fort Post Office for their mail services. The Spanish Fort Post Office also services some rural areas surrounding the City which will also be negatively impacted by the closing of the Spanish Fort Post Office.

The City of Spanish Fort has a Post Office Box at the Spanish Fort Post Office, but if this closure is allowed to stand, the City of Spanish Fort's Post Office Box will be in the City of Daphne Post Office. There is great concern that the City of Spanish Fort will lose part of its identity if residents and businesses are required to maintain post office boxes in a different city. Such a change could also affect tax collection and business licenses, as business addresses would now be based on a City of Daphne Post Office Box.

While the Postal Service argues that the citizens of Spanish Fort and the surrounding community can buy stamps from various retail facilities, the Postal Service does not address the loss of the other services at the Spanish Fort Post Office including, but not limited to, the loss of post office boxes. The Postal Service argues that the residents of Spanish Fort can either opt to lease a post office box at the Daphne Post Office or request rural carrier delivery. Such an argument does not adequately take into account the negative effect of removing the post office boxes from the Spanish Fort Post Office including, but not limited to, the increased travel times and distances, the impact on the elderly community in Spanish Fort, diminished access to postal services, costs to businesses as a result of changing address and business practices, potential loss of sales tax and business opportunities, among other issues. The Spanish Fort Post Office offers post office boxes

in a secured location that provides a protected environment for businesses and individuals to send and receive mail, without the worry of their mail and important documents being stolen from a roadside mailbox or receptacle. It also allows a secure place for individuals and businesses to receive mail without giving their home or business location address, which also helps provide additional security measures for those persons and entities.

United States Senator Richard Shelby and United States Representative Bradley Byrne and their representatives have been in contact with representatives from the Postal Service and were informed that the Spanish Fort Post Office boxes would not be removed from the City of Spanish Fort but would remain in the City of Spanish Fort and would be a part of a solicitation for bids. Upon review of the solicitation of bids, it was determined that the Post Office boxes were omitted from the solicitation of bids, and this was confirmed with representatives from the Postal Service. Senator Shelby, Representative Byrne and/or their representatives have been misled by the Postal Service, and as a result, the Mayor and City Council of the City of Spanish Fort and the community have been misled regarding the intentions of the Postal Service related to the Spanish Fort Post Office. Representative Bradley Byrne sent a letter to the United States Postmaster General Louis DeJoy outlining the communications between Representative Byrne and representatives from the Postal Service and Representative Byrne's belief that he had been misled by the Postal Service. Mayor Michael M. McMillan likewise sent a letter to United States Postmaster General Louis DeJoy. Included with both of the letters is the solicitation of bids issued by the Postal Service which excludes the Spanish Fort Post Office boxes. (Please see Exhibits attached to the Petitioner's Participant Statement, Application for Suspension of the Determination of the Postal Service to

Close the Spanish Fort Post Office, and the Motion to Compel and Supplement to Application for Suspension of the Determination of the Postal Service to Close the Spanish Fort Post Office).

In making determination on the Postal Service's Motion to Dismiss, the Commission should have access to the administrative record. In its Notice and Order Accepting Appeal and Establishing Procedural Schedule, this Commission ordered that "the Postal Service must file the administrative record pertaining to its determination to close the Spanish Fort Post Office by no later than January 7, 2021." Order at 2. Said Order was not contingent on the Commission determining whether it would exercise jurisdiction over this matter. To date, the Postal Service has failed to file said administrative record or make the same available to Petitioner. Instead, in its Motion to Dismiss, the Postal Service has summarized certain facts which it believes support said Motion without the support of the administrative record.

Without access to the administrative record and the facts and findings contained therein, Petitioner is unable to properly appeal this matter and is further unable to properly respond to the Postal Service's Motion to Dismiss. Likewise, the Commission should have the benefit of examining and considering the full record. Accordingly, the Postal Service having disregarded this Commission's Order by withholding the record from the Commission and Petitioner, this Commission should deny the Postal Service's Motion, should take jurisdiction of this appeal, and should remand the matter to the Postal Service for further consideration.

As a matter of public policy, this Commission should exercise jurisdiction of Petitioner's appeal. Local Post Offices, like the Spanish Fort Post Office, are vital to every town and city-both large and small. The Spanish Fort Post Office has served its community faithfully for sixty

(60) years. The postal regulations cited herein exist to protect postal customers and provide them with an opportunity to engage with the Postal Service and express their sentiments in situations such as this. The Spanish Fort Post Office was summarily closed with no explanation given to the affected customers, nor were said customers given an opportunity to comment, voice their concerns, or propose alternatives. A closure in such a manner diminishes the trust and confidence which the citizens of Spanish Fort have placed in the Postal Service. Therefore, it is in the interests of public policy for this Commission to take jurisdiction in this instance and consider this appeal.

C. The Postal Regulatory Commission should reconsider the “sole source” rule and its applications to post offices like the Spanish Fort Post Office to ensure that there is at least some regulatory oversight over the closing of the only post office in a city or community.

The Postal Regulatory Commission should reconsider the “sole source” rule and its application under the Knob Fork case and its progeny, as it appears that, more often than not, jurisdiction is denied. According to the plain language of 39 U.S.C. § 404, “any post office” closing should be subject to the applicable requirements and regulatory oversight by the Postal Regulatory Commission. As a practical matter, under the Postal Service’s interpretation and application of the “sole source” rule or exception, virtually no post office would ever be considered a “sole source” if there is a post office within 15 plus miles, if you can buy stamps online or at some retail establishment within 15 plus miles or buy stamps from a rural mail carrier. With such a narrow application of the “sole source” rule, many who have lost their post office would argue that there is no “sole source” rule. At a minimum, the Petitioner requests that the Postal Regulatory Commission review the “sole source” rule or exception and determine that a post office, like the Spanish Fort Post



Office, which is the only post office in the corporate limits of a city, is subject to the discontinuance or closing procedures required under 39 U.S.C. § 404. In accordance with 39 U.S.C. § 404, it is clear that the words “any post office” would include the Spanish Fort Post Office, and therefore, in accordance with Federal law, the Postal Service is required to satisfy the requirements and follow the procedures set forth in 39 U.S.C. § 404. The Postal Service should not be allowed to violate Federal law and avoid regulatory oversight by the Postal Regulatory Commission through the adoption of regulations and rules which limit the definition of “any post office” to only certain post offices.

D. The Postal Service will not be disadvantaged by the application of 39 U.S.C. § 404 to post offices like the Spanish Fort Post Office.

The United States Postal Service claims that it would be unfairly disadvantaged in contract management, negotiation and implementation related to contract post offices if the requirements for discontinuance and closure set forth 39 U.S.C. § 404 are applied to community post offices or contract postal units. The United States Postal Service is one of the largest entities in the United States of America, and has a multi-billion dollar annual budget. The Postal Service has thousands of employees working at thousands of locations throughout the United States and the world, and the Postal Service has rule making authority regarding the implementation of its operations. The City of Spanish Fort is a municipality in Baldwin County, Alabama, with less than 10,000 residents, and the Spanish Fort Post Office operates on a contract with a contractor in one small building on a budget of approximately \$170,000.00 per year. With all due respect, the Postal Service should not be worried about its bargaining position as “the deck is presently stacked”. This

is effectively the same as “Goliath” calling “David” the giant. The Petitioner respectfully requests that the Postal Regulatory Commission enforce the terms of 39 U.S.C. § 404 and determine that the Spanish Fort Post Office is “any post office” and subject to regulatory oversight by the Postal Regulatory Commission.

The Petitioner asserts that the Spanish Fort Post Office is not just “any post office”, it is our post office. We, as citizens of the United States of America and customers of the Postal Service, deserve better than this.

## V. CONCLUSION

The Petitioner asserts that 39 U.S.C. § 404 applies to “any post office”, and therefore the closing of the Spanish Fort Post Office is subject to the requirements and procedures set forth therein. The Postal Service has failed to follow any of the procedural requirements and make the determinations required by 39 U.S.C. § 404. Instead, the Postal Service has passed regulations and policies and handbooks that create exceptions to the application of 39 U.S.C. § 404 that Petitioner asserts are not allowed and violate Federal law and the scope of the Postal Service’s rule making authority. As a result, “any post office” closure is not closed and reviewed in accordance with 39 U.S.C. § 404, just the post offices that the Postal Service operates and wants to allow review. The Petitioner asserts that the Postal Regulatory Commission should reclaim its jurisdictional authority and apply 39 U.S.C. § 404 to “any post office” closing in order to allow for public comment and regulatory oversight for such an important decision. At a minimum, the Petition respectfully asserts that the Postal Regulatory Commission should determine that the only post office located in a city or community is a “sole source”.

In the Matter of Spanish Fort, Alabama 36527  
Docket No. A2021-1  
Page 19

The Petitioner respectfully requests that the Postal Regulatory Commission deny the Postal Service's Motion to Dismiss and issue an order compelling the Postal Service to produce the administrative record in this matter.

Respectfully submitted this 19th day of January, 2021.

s/David J. Conner  
DAVID J. CONNER  
City Attorney  
City of Spanish Fort, Alabama / Petitioner

OF COUNSEL:  
BLACKBURN & CONNER, P.C.  
Attorneys at Law  
Post Office Box 458  
Bay Minette, Alabama 36507  
(251) 937-1750

# EXHIBIT A















# Thanks for Visiting

Please help keep  
this Post Office™  
a healthy space.



UNITED STATES  
POSTAL SERVICE

PRIORITY: YOU

## REMINDER NOTICE

THIS LOCATION AND ACCESS TO POST  
OFFICE BOXES WILL CLOSE ON

JANUARY 15, 2021 AT 4:30PM

PLEASE MAKE SURE ALL MAIL IS  
REMOVED FROM YOUR BOXES PRIOR TO  
THAT TIME AND THAT YOU HAVE  
SUBMITTED A CHANGE OF ADDRESS  
CARD TO THE USPS. ALL MAIL LEFT IN  
BOXES WILL BE COLLECTED AND TAKEN  
TO THE DAPHNE POST OFFICE WHERE IT  
WILL BE HELD FOR 30 DAYS. IF MAIL IS  
NOT COLLECTED IT WILL THEN BE  
RETURNED TO SENDER.

God Bless America 

### Business Hours

Monday 9:00 AM - 5:00 PM  
Tuesday 9:00 AM - 5:00 PM  
Wednesday 9:00 AM - 5:00 PM  
Thursday 9:00 AM - 5:00 PM  
Friday 9:00 AM - 5:00 PM  
Saturday 9:00 AM - 12:00 PM  
Sunday Closed

Notice to be  
posted in the  
Post Office  
at the time of  
the closing of  
the Post Office  
for the purpose  
of the closing.



### Welcome to Spanish Fort Post Office

Credit and Debit Cards Accepted  
for Postage and Box Rental Payments

Money Orders - Cash Only

2020

### Post Office Holidays

This office will be closed on the following dates:

January 1	New Year's Day	Wednesday
January 20	MLK, Jr. Day	Monday
February 17	President's Day	Monday
May 25	Memorial Day	Monday
July 4	Independence Day	Saturday
September 7	Labor Day	Monday
October 12	Columbus Day	Monday
November 11	Veterans Day	Wednesday
November 26	Thanksgiving	Thursday
December 25	Christmas Day	Friday

## Please protect yourself and others

Masks or face  
coverings are required  
inside our lobby.



6ft

Keep a minimum  
of 6 feet between  
yourself and others.

Limit the Post Office™  
lobby to no more than  
10 people at a time.



Hunter



Security Inc.  
251-626-5112  
AL 6312

## NOTICE



THIS PROPERTY  
IS UNDER  
VIDEO/AUDIO  
SURVEILLANCE



## EXTRA SERVICES

### PROTECT

#### INSURANCE

Protects against loss or damage up to \$5,000 for certain products and destinations.

- **PRIORITY MAIL EXPRESS** up to \$100 FREE
- **PRIORITY MAIL** up to \$50 FREE
- **PRIORITY MAIL INTERNATIONAL** and **PRIORITY MAIL EXPRESS INTERNATIONAL** up to \$100 for each available document reconstruction or up to \$200 for merchandise depending on contents FREE

#### REGISTERED MAIL<sup>®</sup>

Additional security and highest insurance coverage up to \$50,000. Available with limited indemnity for First-Class Mail<sup>®</sup> International<sup>®</sup> and First-Class Package International<sup>®</sup> service.

Domestic  
Flat Rate<sup>®</sup> \$2.25  
Priority Mail<sup>®</sup> \$6.75

### TRACK

#### USPS TRACKING<sup>®</sup> SERVICE

Provides day/time of delivery.  
Free with Priority Mail Express<sup>®</sup>, Priority Mail Express International<sup>®</sup>, Priority Mail<sup>®</sup>, Priority Mail International<sup>®</sup>, USPS Retail Ground<sup>®</sup>, First-Class Package Service<sup>®</sup>, Retail<sup>®</sup> Library Mail<sup>®</sup>, and First-Class Mail<sup>®</sup> service.

FREE

#### RETURN RECEIPT<sup>®</sup>

Mail is held until proof of delivery only available with purchase of other service.

Domestic  
Flat Rate<sup>®</sup> \$2.65  
Priority Mail<sup>®</sup> \$1.70

#### SIGNATURE CONFIRMATION<sup>®</sup>

Limit proof of signature and day/time of delivery. Free with Priority Mail Express<sup>®</sup> upon request.

Domestic  
Flat Rate<sup>®</sup> \$2.65

#### CERTIFIED MAIL<sup>®</sup>

Postmarked Return Receipt as proof of mailing.

Domestic  
Flat Rate<sup>®</sup> \$3.55

## U.S. SHIPPING

### PRIORITY MAIL EXPRESS<sup>®</sup>

#### OVERNIGHT DELIVERY TO MOST DESTINATIONS

DELIVERY BY MORNING TO MOST DESTINATIONS. DELIVERIES WITHIN THE CONTOUR OF THE UNITED STATES. DELIVERIES TO CANADA, MEXICO, AND GUAM MAY BE AVAILABLE FOR AN ADDITIONAL FEE.

Flat Rate Envelope \$26.35

USPS Tracking<sup>®</sup> Service and insurance costs not included. Signature upon request.

Use any box or envelope

Domestic  
Flat Rate<sup>®</sup> \$26.35

### PRIORITY MAIL<sup>®</sup>

#### EXPECTED DELIVERY IN 1, 2 OR 3 DAYS

Flat Rate Envelope \$7.75

Flat Rate Small Box \$8.50

Flat Rate Medium Box \$15.05

Flat Rate Large Box \$21.10

USPS Tracking<sup>®</sup> Service and insurance costs not included. Signature upon request.

Use any box or envelope

Domestic  
Flat Rate<sup>®</sup> \$7.75

### FIRST-CLASS MAIL<sup>®</sup> SERVICE

#### 1-3 BUSINESS DAY DELIVERY

Letters 3.5 ounces or less \$0.55

Large Envelopes 10 ounces or less \$1.05

#### FIRST-CLASS PACKAGE SERVICE<sup>®</sup> - RETAIL

#### 1-3 BUSINESS DAY DELIVERY

Packages 13 ounces or less \$3.65

USPS Tracking<sup>®</sup> Service and insurance costs not included. Signature upon request.

Use any box or envelope

Domestic  
Flat Rate<sup>®</sup> \$3.65

U.S. MAIL PERMIT NO. 1000  
SAN FRANCISCO, CA 94111-5000

POSTAGE WILL BE PAID BY ADDRESSEE

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

MEMBER OF THE BOARD OF DIRECTORS

Spanish Fort Fire Rescue Department, Inc.

January 11, 2021  
6:00pm

at Fire Station #1,  
7580 Spanish Fort Blvd.

Agenda

1. Call to Order

2. Reading of Minutes

3. Report of the Treasurer

4. Report of the Secretary

5. Report of the Board of Directors

6. Open House

7. Adjourn

U.S. MAIL PERMIT NO. 1000  
SAN FRANCISCO, CA 94111-5000

POSTAGE WILL BE PAID BY ADDRESSEE

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

PUBLIC MEETING NOTICE

The Spanish Fort Fire Rescue Department, Inc. is holding a public meeting on January 11, 2021 at 6:00pm at Fire Station #1, 7580 Spanish Fort Blvd. The meeting will be held in the Board Room. The agenda for the meeting is as follows:

1. Call to Order

2. Reading of Minutes

3. Report of the Treasurer

4. Report of the Secretary

5. Report of the Board of Directors

6. Open House

7. Adjourn

MEETING NOTICE:

The next regularly scheduled Board of Directors meeting for the Spanish Fort Fire Rescue Department, Inc. will be

January 11, 2021  
6:00pm

at Fire Station #1,  
7580 Spanish Fort Blvd.

Agenda

1. Call to Order

2. Reading of Minutes

3. Report of the Treasurer

4. Report of the Secretary

5. Report of the Board of Directors

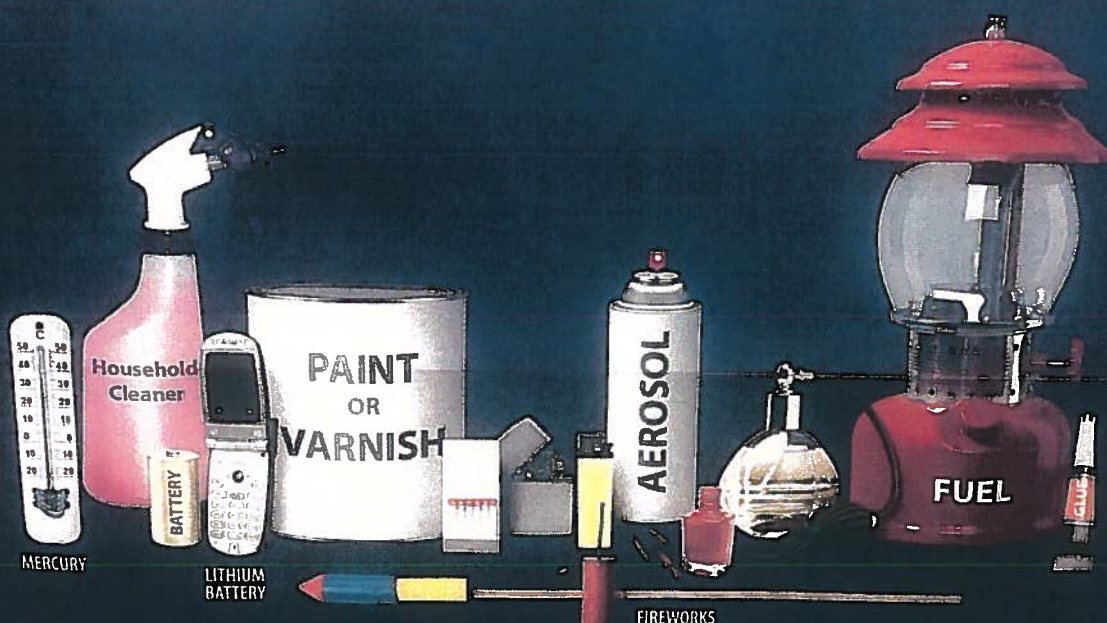
6. Open House

7. Adjourn



# IS YOUR PACKAGE SAFE TO MAIL?

You could be mailing hazardous materials  
and not even know it.



Did you know that many common household items are dangerous to ship and are not permitted in the mail? Even items that are permitted in the mail can present a hazard if improperly packaged, due to vibration, temperature changes and variations in atmospheric pressure.

USPS® is committed to keeping your mail safe. Log on and see if the item you wish to mail is permitted and learn more about how to prepare this type of mail safely.

**WARNING:** Persons who knowingly mail items or materials that are dangerous or injurious to life, health, or property in violation of 39 USC § 3018 may be liable for a civil penalty of at least \$250, but not more than \$100,000 for each violation; the costs of any cleanup associated with each violation; and damages.

Visit [usps.com/aviationsecurity](http://usps.com/aviationsecurity) for more information.



UNITED STATES  
POSTAL SERVICE





# PACKAGING

## PRIORITY MAIL EXPRESS

### DOMESTIC OVERNIGHT DELIVERY TO MOST DESTINATIONS

DELIVERY BY 10:00 AM OR 8 PM TO MOST U.S. DESTINATIONS  
WITH A MONEY BACK GUARANTEE.  
DELIVERY BY 10:00 AM OR 8 PM ON A SUNDAY OR A HOLIDAY  
MAY BE AVAILABLE FOR AN ADDITIONAL FEE.



FLAT RATE ENVELOPE



VARIABLE RATE ENVELOPE  
MAY BE USED FOR FLAT RATE  
MAIL AND FLAT RATE MAIL

3-5 BUSINESS DAYS INTERNATIONAL

## PRIORITY MAIL

### EXPECTED DOMESTIC DELIVERY DATES



FLAT RATE ENVELOPE



FLAT RATE SMALL BOX



FLAT RATE MEDIUM BOX



FLAT RATE LARGE BOX



VARIABLE RATE ENVELOPE  
MAY BE USED FOR FLAT RATE  
MAIL AND FLAT RATE MAIL

6-10 BUSINESS DAYS INTERNATIONAL



PRIORITY MAIL EXPRESS ENVELOPE

PRICING \$26.95

PRIORITY MAIL ENVELOPE

PRICING \$7.75

PRIORITY MAIL FLAT RATE SMALL BOX

PRICING \$8.30

PRIORITY MAIL FLAT RATE ENVELOPE

PRICING \$7.75

PRIORITY MAIL FLAT RATE MEDIUM BOX

PRICING \$13.95

PRIORITY MAIL FLAT RATE MEDIUM BOX

PRICING \$15.00

PRIORITY MAIL FLAT RATE LARGE BOX

PRICING \$21.95

UNITED STATES  
POSTAL SERVICE





# Business Hours

**Monday**      9:00 am    *to*    4:30 pm

**Tuesday**      9:00 am    *to*    4:30 pm

**Wednesday**      9:00 am    *to*    4:30 pm

**Thursday**      9:00 am    *to*    4:30 pm

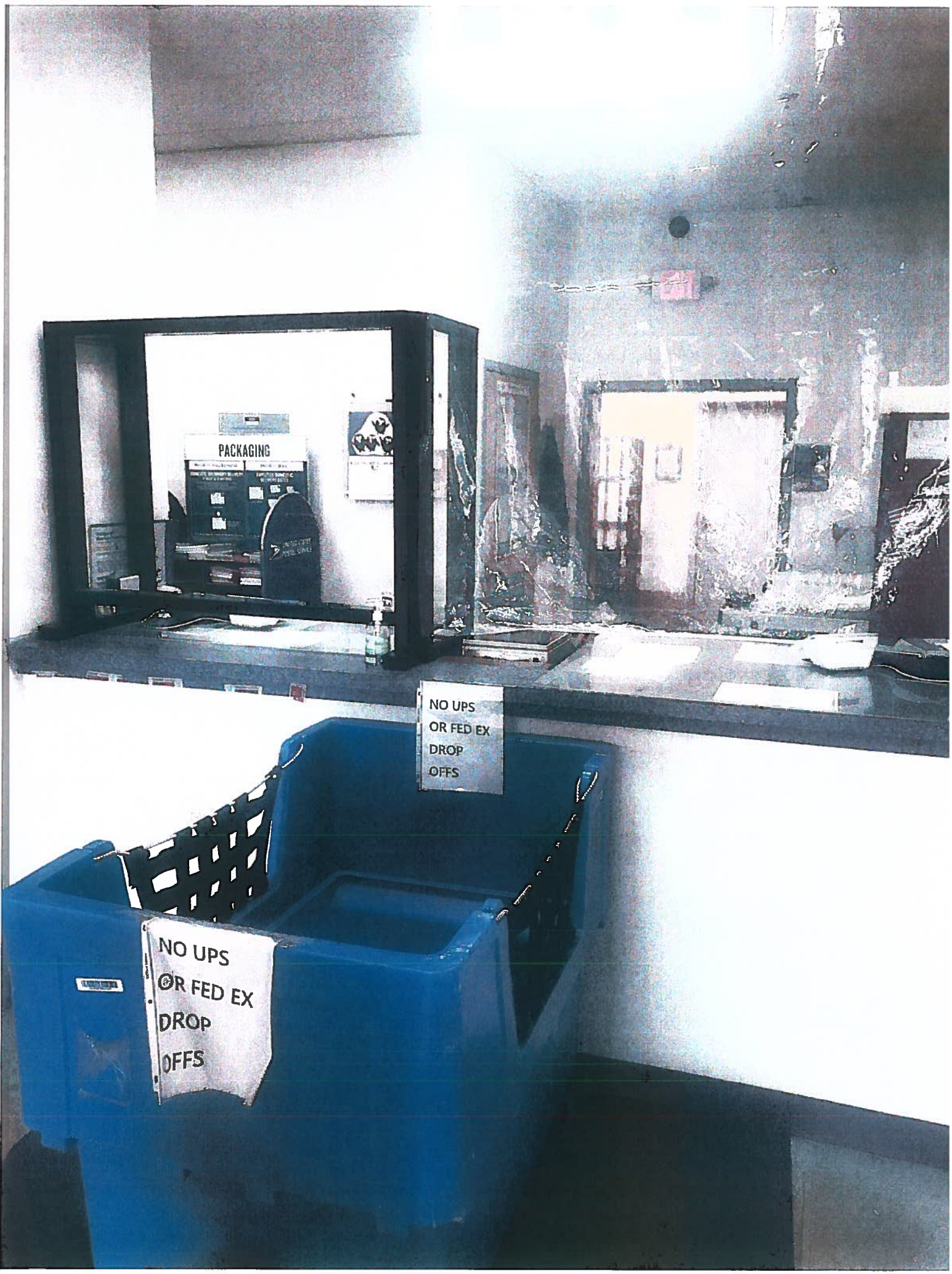
**Friday**      9:00 am    *to*    4:30 pm

**Saturday**      9:00 am    *to*    12:00 pm

**Sunday**      Closed    *to*    Closed

(251)626-3786









### Business Hours

Monday 9:00 AM to 5:00 PM  
Tuesday 9:00 AM to 5:00 PM  
Wednesday 9:00 AM to 5:00 PM  
Thursday 9:00 AM to 5:00 PM  
Friday 9:00 AM to 5:00 PM  
Saturday 9:00 AM to 5:00 PM  
Sunday 12:00 PM to 5:00 PM  
(251) 626-3786

### Protect yourself and others

Please follow the CDC recommendation and keep a minimum of 6 feet between you and others while in the Retail Lobby.

### Protegete a ti mismo es proteger a otros

Por favor sigue las recomendaciones del CDC, mantén una distancia mínima de 6 pies con las demás personas.



Please do not put prepaid packages in mail drop after business hours to ensure proper handling procedures.

Thank you  
Spanish Fort Post Office

SPANISH FORT MAIL



OUT OF TOWN MAIL



METERED MAIL



PAYMENT DROP







**Business Hours**

Monday	9:00 - 5:00
Tuesday	9:00 - 5:00
Wednesday	9:00 - 5:00
Thursday	9:00 - 5:00
Friday	9:00 - 5:00
Saturday	9:00 - 5:00
Sunday	9:00 - 5:00



**Protect yourself and others**

Please follow the CDC recommendations on how to protect yourself and others from the spread of COVID-19. For more information, visit [www.cdc.gov/covid19](https://www.cdc.gov/covid19).

**Spanish Fort Mail**

Please use the provided postage meter to mail drop orders. Business hours for postage meter use are 9:00 AM to 5:00 PM, Monday through Friday.

**SPANISH FORT MAIL**

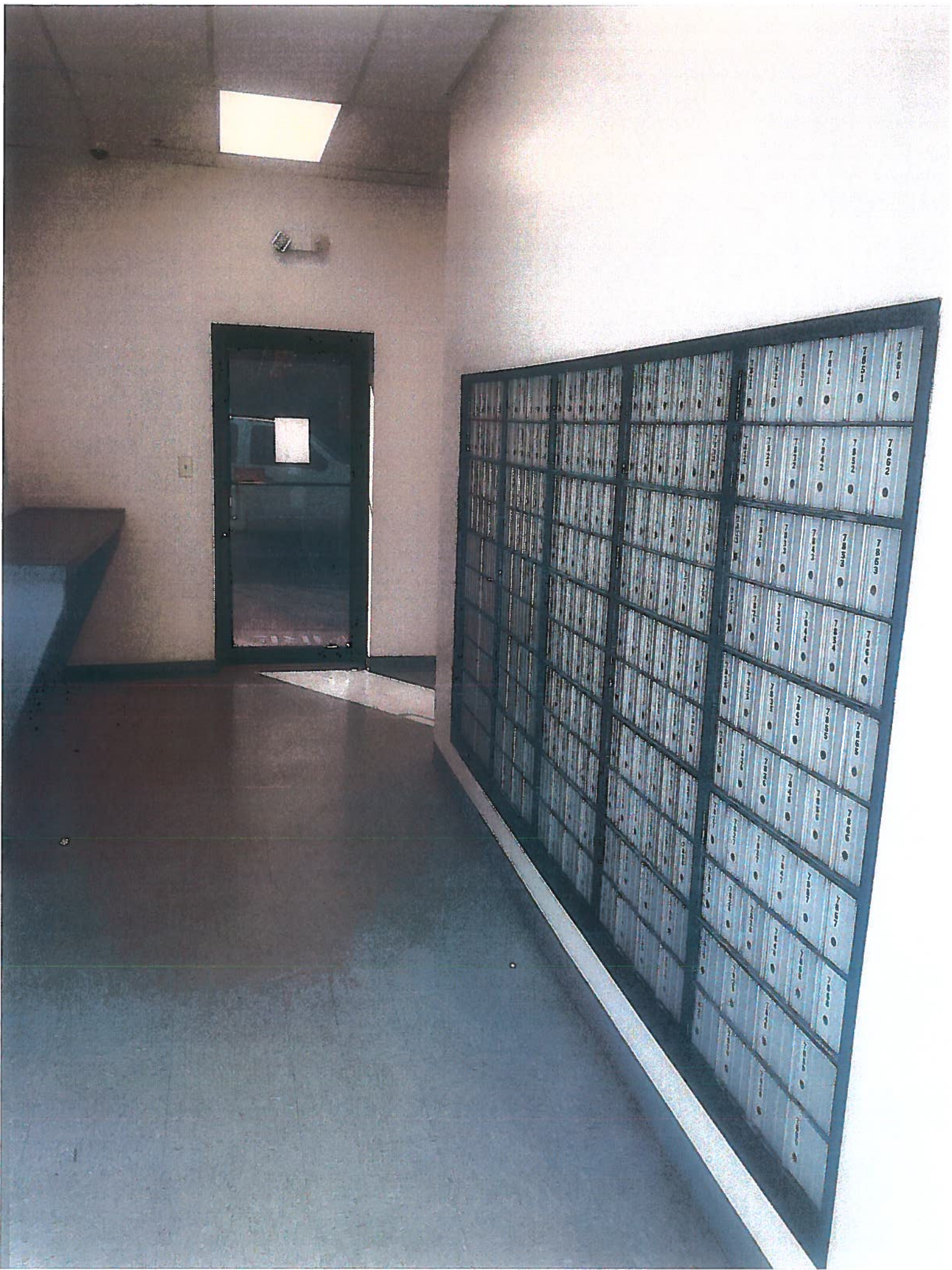
**OUT OF TOWN MAIL**

**METERED MAIL**





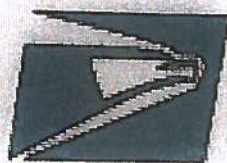












**UNITED STATES  
POSTAL SERVICE®**

**ATTENTION  
POSTAL CUSTOMERS**

**This postal unit will be closed  
effective January 15, 2021.**

***We apologize for this  
inconvenience.***

**Please visit the following location:**

**Daphne Post Office  
808 Daphne Ave  
Daphne, AL 36526**

**You may order stamps by calling 1-800-Stamp 24 or visit our  
website at [www.usps.com](http://www.usps.com).**





COLLECTION TIMES

Day	Time
Monday	7:00 AM - 10:00 AM
Tuesday	7:00 AM - 10:00 AM
Wednesday	7:00 AM - 10:00 AM
Thursday	7:00 AM - 10:00 AM
Friday	7:00 AM - 10:00 AM
Saturday	7:00 AM - 10:00 AM
Sunday	7:00 AM - 10:00 AM

**ATTENTION**  
Operation Safety

